IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 464 OF 2006

M/s. Milestone Automobiles
Pvt. Ltd. & 3 ors. ... Petitioners.

V/s.

Jaybharat Credit Ltd. & Anr. ... Respondents.

Mr. Pankaj Shah for the petitioners.

Mr. Dipen Merchant with Mr. Dilip Rai i/by Mr. R. N. Rai for respondent No.1.

CORAM : ANOOP V. MOHTA,J.

DATED : 23rd April, 2007

P.C.

This is a petition under Section 34 of the Arbitration and Conciliation Act-1996 (for short, "The Arbitration Act") whereby the petitioners have challenged the award on the ground of breach of principle of natural justice.

2. After considering the rival contentions between the parties based on this issue, I am of the view that the award is passed in breach of principle of natural justice. As on 14th March, 2006, the Arbitrator has

directed that the claimant-petitioners to file their written statement. On 24th April, 2006, the petitioners have filed their written statement. The matter was thereafter, adjourned for 26th July, 2006. It appears from the record and proceedings that petitioner No.2 who is a claimant and who is a Managing Director of Neptune Equipments Pvt. Ltd., under his signature, sent a request letter for adjournment, dated 24th July, 2006. It was received by the Arbitrator on the same date. There is no reference made to this letter of adjournment, by the Arbitrator while passing the final award on 26th July, 2006. Even, otherwise as it was only second date for hearing of the arbitration proceedings, I am of the view that the petitioners' submission that there is a breach of principle of natural justice, just cannot be overlooked. I am acceding to the said submission.

3. Without touching the merit of the matter, the impugned award is quashed and set aside. However, the Arbitrator in the facts and circumstances of the case that the claim is pending since 2005, the matter be heard expeditiously preferably within six weeks.

4. The present order is on a condition that, the

petitioners shall pay to the respondents/claimants advocate a sum of Rs.10,000/- (Rupees ten thousand only) towards the costs within seven days.

5. The petition is allowed.

6. Record and proceedings be sent back to the Arbitrator forthwith.

7. Certified copy expedited.

[ANOOP V. MOHTA, J.]